



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-089]

Certain Steel Racks and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of certain steel racks and parts thereof (steel racks) from the People's Republic of China (China).

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Robert Galantucci, Eli Lovely, or Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-2923, (202) 482-1593, or (202) 482-3147, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is the Coalition for Fair Rack Imports (the petitioner). In addition to the Government of China (GOC), the mandatory respondents in this investigation are Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd. (Kingmore), Nanjing Dongsheng Shelf Manufacturing Co., Ltd. (Dongsheng), Nanjing Huade Storage Equipment Manufacture Co., Ltd. (Huade), Tangshan Apollo Energy Equipment Company, Ltd. (Apollo),

and Xiamen Aifei Metal Manufacturing Co., Ltd. (Aifeimetal). Apollo, Huade, and Kingmore did not respond to our requests for information.

On December 3, 2018, Commerce published in the *Federal Register* the *Preliminary Determination* of this investigation.¹ On April 22, 2019, Commerce published an *Amended Preliminary Determination* to revise the scope of this investigation to conform with the modified scope published in the preliminary determination of the companion antidumping duty (AD) investigation.²

Additional background on this case, including a summary of events that occurred since Commerce published the *Preliminary Determination* and a discussion of comments from interested parties, is provided in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation (POI) is January 1, 2017 through December 31, 2017.

Scope Comments

¹ See *Certain Steel Racks from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 62297 (December 3, 2018) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² See *Steel Racks from the People's Republic of China: Amended Preliminary Countervailing Duty Determination*, 84 FR 16640 (April 22, 2019) (*Amended Preliminary Determination*).

³ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Steel Racks from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

During the course of this investigation and the concurrent AD investigation of steel racks from China, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Memorandum to address these comments and set aside a period of time for parties to comment on scope issues in case and rebuttal briefs.⁴ We received comments from interested parties on the Preliminary Scope Memorandum, which we address in our Issues and Decision Memorandum.⁵ For this final determination, we have made no changes to the scope of this investigation, as published in the *Amended Preliminary Determination*.⁶

Scope of the Investigation

The products covered by this investigation are steel racks and parts thereof. For a complete description of the scope of this investigation, *see* Appendix I.

Use of Adverse Facts Available

Commerce relied on “facts otherwise available,” including adverse facts available (AFA), for several findings in the *Preliminary Determination*. We are continuing to apply AFA for the final determination. For a full discussion of our application of AFA, *see* the *Preliminary Determination* and the Issues and Decision Memorandum.⁷

Analysis of Comments Received

In the Issues and Decision Memorandum, we address all issues raised in parties’ case and rebuttal briefs, including those issues related to scope. A list of the issues that parties raised, and to which we responded, is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

⁴ See Memorandum, “Steel Racks from the People’s Republic of China: Preliminary Scope Decision,” dated February 25, 2019 (Preliminary Scope Memorandum).

⁵ See Issues and Decision Memorandum, at Comment 7.

⁶ See *Amended Preliminary Determination*, 84 FR at 16640-41.

⁷ See *Preliminary Determination* and accompanying Preliminary Decision Memorandum, at “Use of Facts Otherwise Available and Adverse Inferences”; *see also* Issues and Decision Memorandum, at “Use of Facts Otherwise Available and Adverse Inferences” and Comment 4.

Following the *Preliminary Determination*, the petitioner and other interested parties agreed to modify the scope of this investigation. As a result of this modification, Aifeimetal did not have shipments of subject merchandise to the United States during the POI. Accordingly, Aifeimetal will not receive a subsidy rate in this final determination. We note that, because the total AFA rate was based, in part, on Aifeimetal's questionnaire response, we have made adjustments to the total AFA rate.⁸

With respect to Dongsheng, Commerce has corrected its calculation of benefits received under the hot-rolled steel for less than adequate remuneration program. Apart from this correction, we have not modified our methodology for calculating a subsidy rate for Dongsheng.

All-Others Rate

In accordance with section 705(c)(5)(A) of the Tariff Act of 1930, as amended (the Act), Commerce shall determine an estimated all-others rate for companies not individually examined. Generally, under section 705(c)(5)(A)(i) of the Act, this rate shall be an amount equal to the weighted-average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely on AFA under section 776 of the Act.

In the final determination of this investigation, Commerce assigned rates for Apollo, Huade, and Kingmore in accordance with section 776 of the Act, and Aifeimetal did not receive a subsidy rate because it did not have shipments of subject merchandise during the POI. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Dongsheng. Consequently, in accordance with section 705(c)(5)(A)(i) of the Act, the rate calculated for Dongsheng is also assigned as the rate for "All-Other" producers and exporters.

⁸ Compare Preliminary Decision Memorandum at 47-52, with Issues and Decision Memorandum at 22-24.

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we calculated an individual estimated subsidy rate for Dongsheng, and established subsidy rates for Apollo, Huade, Kingmore, and the 13 companies that failed to respond to Commerce's quantity and value questionnaire by applying AFA.

Commerce determines the total estimated net countervailable subsidy rates to be the following:

Company	Subsidy Rate
Designa Inc.	102.23 percent
Dongguan Baike Electronic Co., Ltd.	102.23 percent
Ezidone Display Corp. Ltd.	102.23 percent
Fenghua Huige Metal Products Co., Ltd.	102.23 percent
Formost Plastic Metal Works (Jiaxing) Co., Ltd.	102.23 percent
Jiangsu Kingmore Storage Equipment Manufacturing Co., Ltd.	102.23 percent
Nanjing Dongsheng Shelf Manufacturing Co., Ltd.	1.50 percent
Nanjing Huade Storage Equipment Manufacture Co., Ltd.	102.23 percent
Ningbo Bocheng Home Products Co., Ltd.	102.23 percent
Ningbo Joys Imp. & Exp. Co., Ltd.	102.23 percent
Ningbo Li Zhan Import & Export Co.	102.23 percent
Qingdao Haineng Hardware Products Co., Ltd.	102.23 percent
Qingdao Huatian Hand Truck Co., Ltd.	102.23 percent
Qingdao Zeal-Line Stainless Steel Products Co., Ltd.	102.23 percent
Seven Seas Furniture Industrial (Xiamen) Co., Ltd.	102.23 percent
Shijiazhuang Wells Trading & Mfg. Co., Ltd.	102.23 percent
Tangshan Apollo Energy Equipment Company	102.23 percent
All-Others	1.50 percent

Disclosure

We intend to disclose to interested parties under Administrative Protective Order (APO), the calculations performed in connection with this final determination within five days of any

public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to sections 703(d)(1)(B) and (2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from China that were entered or withdrawn from warehouse, for consumption, on or after December 3, 2018, *i.e.*, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered, or withdrawn from warehouse, on or after April 3, 2019, but to continue the suspension of liquidation of all entries from December 3, 2018 through April 2, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited as a result of the suspension of the suspension of liquidation will be refunded.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because Commerce's final determination in this proceeding is affirmative, in

accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of steel racks from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to the parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or, alternatively, conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: July 17, 2019

James Maeder,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is steel racks and parts thereof, assembled, to any extent, or unassembled, including but not limited to, vertical components (*e.g.*, uprights, posts, or columns), horizontal or diagonal components (*e.g.*, arms or beams), braces, frames, locking devices (*e.g.*, end plates and beam connectors), and accessories (including, but not limited to, rails, skid channels, skid rails, drum/coil beds, fork clearance bars, pallet supports, row spacers, and wall ties).

Subject steel racks and parts thereof are made of steel, including, but not limited to, cold and/or hot-formed steel, regardless of the type of steel used to produce the components and may, or may not, include locking tabs, slots, or bolted, clamped, or welded connections. Subject steel racks have the following physical characteristics:

- (1) Each steel vertical and horizontal load bearing member (*e.g.*, arms, beams, posts, and columns) is composed of steel that is at least 0.044 inches thick;
- (2) Each steel vertical and horizontal load bearing member (*e.g.*, arms, beams, posts, and columns) is composed of steel that has a yield strength equal to or greater than 36,000 pounds per square inch;
- (3) The width of each steel vertical load bearing member (*e.g.*, posts and columns) exceeds two inches; and
- (4) The overall depth of each steel roll-formed horizontal load bearing member (*e.g.*, beams) exceeds two inches.

In the case of steel horizontal load bearing members other than roll-formed (*e.g.*, structural beams, Z-beams, or cantilever arms), only the criteria in subparagraphs (1) and (2) apply to these horizontal load bearing members. The depth limitation in subparagraph (4) does not apply to steel horizontal load bearing members that are not roll-formed.

Steel rack components can be assembled into structures of various dimensions and configurations by welding, bolting, clipping, or with the use of devices such as clips, end plates, and beam connectors, including, but not limited to the following configurations: (1) Racks with upright frames perpendicular to the aisles that are independently adjustable, with positive-locking beams parallel to the aisle spanning the upright frames with braces; and (2) cantilever racks with vertical components parallel to the aisle and cantilever beams or arms connected to the vertical components perpendicular to the aisle. Steel racks may be referred to as pallet racks, storage racks, stacker racks, retail racks, pick modules, selective racks, or cantilever racks and may incorporate moving components and be referred to as pallet-flow racks, carton-flow racks, push-back racks, movable-shelf racks, drive-in racks, and drive-through racks. While steel racks may be made to ANSI MH16.1 or ANSI MH16.3 standards, all steel racks and parts thereof

meeting the description set out herein are covered by the scope of this investigation, whether or not produced according to a particular standard.

The scope includes all steel racks and parts thereof meeting the description above, regardless of

- (1) other dimensions, weight, or load rating;
- (2) vertical components or frame type (including structural, roll-form, or other);
- (3) horizontal support or beam/brace type (including but not limited to structural, roll-form, slotted, unslotted, Z-beam, C-beam, L-beam, step beam, and cantilever beam);
- (4) number of supports;
- (5) number of levels;
- (6) surface coating, if any (including but not limited to paint, epoxy, powder coating, zinc, or other metallic coatings);
- (7) rack shape (including but not limited to rectangular, square, corner, and cantilever);
- (8) the method by which the vertical and horizontal supports connect (including but not limited to locking tabs or slots, bolting, clamping, and welding); and
- (9) whether or not the steel rack has moving components (including but not limited to rails, wheels, rollers, tracks, channels, carts, and conveyors).

Subject merchandise includes merchandise matching the above description that has been finished or packaged in a third country. Finishing includes, but is not limited to, coating, painting, or assembly, including attaching the merchandise to another product, or any other finishing or assembly operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof. Packaging includes packaging the merchandise with or without another product or any other packaging operation that would not remove the merchandise from the scope of the investigation if performed in the country of manufacture of the steel racks and parts thereof.

Steel racks and parts thereof are included in the scope of this investigation whether or not imported attached to, or included with, other parts or accessories such as wire decking, nuts, and bolts. If steel racks and parts thereof are imported attached to, or included with, such non-subject merchandise, only the steel racks and parts thereof are included in the scope.

The scope of this investigation does not cover: (1) Decks, *i.e.*, shelving that sits on or fits into the horizontal supports to provide the horizontal storage surface of the steel racks; (2) wire shelving units, *i.e.*, units made from wire that incorporate both a wire deck and wire horizontal supports (taking the place of the horizontal beams and braces) into a single piece with tubular collars that slide over the posts and onto plastic sleeves snapped on the posts to create a finished

unit; (3) pins, nuts, bolts, washers, and clips used as connecting devices; and (4) non-steel components.

Specifically excluded from the scope of this investigation are any products covered by Commerce's existing antidumping and countervailing duty orders on boltless steel shelving units prepackaged for sale from the People's Republic of China. See *Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Antidumping Duty Order*, 80 FR 63,741 (October 21, 2017); and *Boltless Steel Shelving Units Prepackaged for Sale From the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 Fed. Reg. 63,745 (October 21, 2017).

Also excluded from the scope of this investigation are bulk-packed parts or components of boltless steel shelving units that were specifically excluded from the scope of the Boltless Steel Shelving Orders because such bulk-packed parts or components do not contain the steel vertical supports (*i.e.*, uprights and posts) and steel horizontal supports (*i.e.*, beams, braces) packaged together for assembly into a completed boltless steel shelving unit.

Such excluded components of boltless steel shelving are defined as:

- (1) Boltless horizontal supports (beams, braces) that have each of the following characteristics: (a) A length of 95 inches or less, (b) made from steel that has a thickness of 0.068 inches or less, and (c) a weight capacity that does not exceed 2500 lbs per pair of beams for beams that are 78" or shorter, a weight capacity that does not exceed 2200 lbs per pair of beams for beams that are over 78" long but not longer than 90", and/or a weight capacity that does not exceed 1800 lbs per pair of beams for beams that are longer than 90";
- (2) shelf supports that mate with the aforementioned horizontal supports; and
- (3) boltless vertical supports (upright welded frames and posts) that have each of the following characteristics: (a) A length of 95 inches or less, (b) with no face that exceeds 2.90 inches wide, and (c) made from steel that has a thickness of 0.065 inches or less.

Excluded from the scope of this investigation are: (1) Wall-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the wall, and do not stand on, or transfer load to, the floor; (2) ceiling-mounted shelving and racks, defined as shelving and racks that suspend all of the load from the ceiling and do not stand on, or transfer load to, the floor; and (3) wall/ceiling mounted shelving and racks, defined as shelving and racks that suspend the load from the ceiling and the wall and do not stand on, or transfer load to, the floor. The addition of a wall or ceiling bracket or other device to attach otherwise subject merchandise to a wall or ceiling does not meet the terms of this exclusion.

Also excluded from the scope of this investigation is scaffolding that complies with ANSI/ASSE A10.8—2011—Scaffolding Safety Requirements, CAN/CSA S269.2-M87 (Reaffirmed 2003)—Access Scaffolding for Construction Purposes, and/or Occupational Safety and Health Administration regulations at 29 CFR part 1926 subpart L—Scaffolds.

Also excluded from the scope of this investigation are tubular racks such as garment racks and drying racks, *i.e.*, racks in which the load bearing vertical and horizontal steel members consist solely of: (1) Round tubes that are no more than two inches in diameter; (2) round rods that are no more than two inches in diameter; (3) other tubular shapes that have both an overall height of no more than two inches and an overall width of no more than two inches; and/or (4) wire.

Also excluded from the scope of this investigation are portable tier racks. Portable tier racks must meet each of the following criteria to qualify for this exclusion:

- (1) They are freestanding, portable assemblies with a fully welded base and four freely inserted and easily removable corner posts;
- (2) They are assembled without the use of bolts, braces, anchors, brackets, clips, attachments, or connectors;
- (3) One assembly may be stacked on top of another without applying any additional load to the product being stored on each assembly, but individual portable tier racks are not securely attached to one another to provide interaction or interdependence; and
- (4) The assemblies have no mechanism (*e.g.*, a welded foot plate with bolt holes) for anchoring the assembly to the ground.

Also excluded from the scope of this investigation are accessories that are independently bolted to the floor and not attached to the rack system itself, *i.e.*, column protectors, corner guards, bollards, and end row and end of aisle protectors.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheadings: 7326.90.8688, 9403.20.0080, and 9403.90.8041. Subject merchandise may also enter under subheadings 7308.90.3000, 7308.90.6000, 7308.90.9590, and 9403.20.0090. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary

II. Background

III. Scope Comments

IV. Scope of the Investigation

V. Use of Facts Otherwise Available and Adverse Inferences

VI. Subsidies Valuation Information

VII. Analysis of Programs

VIII. Analysis of Comments

Comment 1: Commerce's Treatment of Aifeimetal in this Investigation

Comment 2: Whether Commerce's Benchmarks Properly Take into Account Prevailing Market Conditions

Comment 3: Whether Commerce Used the Correct Tariff Rate in Constructing the Cold-Rolled and Hot-Rolled Steel Benchmarks

Comment 4: Whether to Countervail Subsidies for Which There Was No Formal Initiation of an Investigation

Comment 5: Whether to Revise Dongsheng's Benefit Calculation under the Electricity for Less than Adequate Remuneration (LTAR) Program

Comment 6: Whether to Include Dongsheng's Purchases of Structural Steel in the Calculation of a Benefit under the Hot-Rolled Steel for LTAR Program

Comment 7: Commerce's Treatment of the Petitioner's International Shipping for LTAR Allegation

Comment 8: The Preliminary Scope Determination

IX. Recommendation

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